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The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 21

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ROBERT B. HAVEKOST, LARRY OSCAR JUNDT,
ROY FALTESEK and IAN JAMES NADAS

Appeal No. 2005-0503
Application No. 09/378,969

ON BRIEF

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U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Before KRASS, RUGGIERO and GROSS, Administrative Patent Judges.

KRASS, Administrative Patent Judge.

Decision On Appeal

This is a decision on appeal from the final rejection of claims 1-24.

The invention pertains to an integrated display of process events and trend data related to the control and/or monitoring of a manufacturing process.

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Representative independent claim 1 is reproduced as follows:

1. A method for displaying process information in a process control and/or monitoring system comprising a workstation having a display screen, a controller and an I/O subsystem, said workstation executing the steps of:

generating and displaying on the display screen a trend chart containing values of one or more selected process parameters during a selected time window based on a user-defined trend chart configuration; and

generating and displaying on the display screen an event table containing information describing process events that are related to the selected process parameters and that occurred during the selected time window, such that the event table and the trend chart may be viewed on the display screen at the same time.

The examiner relies on the following references:

Hanson	5,257,206	Oct. 26, 1993
Murphy et al. (Murphy)	5,768,148	Jun. 16, 1998

Claims 1-5, 8-12, and 14-24 stand rejected under 35 U.S.C. § 102(b) as anticipated by Hanson.

Claims 1, 3-5, 9, 11, and 12 stand further rejected under 35 U.S.C. § 102(b) as anticipated by Murphy.

Reference is made to the brief and answer for the respective position of appellants and the examiner.

OPINION

At the outset, we note that while the examiner includes claims 6, 7 and 13 in his reply to appellants' arguments, at

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pages 7 and 9 of the answer, the examiner never includes these claims in the statement of the rejection, at page 3 of the answer, nor does the examiner include these claims in the reasoning for the rejections in Paper No. 11 to which the examiner refers for an explanation of the rejections.

Accordingly, since there is no formal rejection of these claims before us, the appeal as to claims 6, 7, and 13 is dismissed. If the examiner feels that these claims are to be properly rejected under an appropriate section of the statute, the examiner is required to reopen prosecution, completely and clearly setting forth the grounds of rejection and the reasoning therefor.

Turning to the rejections before us, a rejection for anticipation under section 102 requires that the four corners of a single prior art document describe every element of the claimed invention, either expressly or inherently, such that a person of ordinary skill in the art could practice the invention without undue experimentation. In re Paulsen, 30 F.3d 1475, 1478-79, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994).

In the instant case, with regard to the Hanson reference, the examiner contends that Hanson depicts a trend chart in Figures 6-8 and 15-18 during a selected time window, referring to column 8, lines 22-26, and that Hanson displays an event table,

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in depicting an "alarm," described at column 9, lines 45-56, and shown in Figures 6 and 7, or the table of Figure 8, for the selected time window.

With regard to Murphy, the examiner does not even bother to apply this reference at all in explaining the rejection. At page 3 of Paper No. 11, which the examiner refers to in the answer for an explanation of the rejection, the examiner merely states that "claims 1, 3-5, 9, 11 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Murphy et al., U.S. Patent No. 5,768,148. These claims do not require the trend chart and the event table to be displayed on the display screen such that the user can view both the trend chart and the event table at the same time." That is the examiner's whole explanation of the rejection.

Initially, we note the examiner's error in that independent claims 1 and 9 do, in fact, require the trend chart and the event table to be viewed on the display screen at the same time. So the examiner's only, meager, explanation of the rejection is based on an erroneous hypothesis.

Since the examiner has clearly failed to set forth any prima facie case of anticipation against the claims, regarding Murphy, as absolutely no explanation of the rejection is given in the answer or in Paper No. 11, relied on by the answer, the examiner

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has failed, in the first instance, to meet his burden, and appellants were not obliged to argue anything regarding this rejection.

One may assert that the examiner provides some reasoning, at pages 5-6 of Paper No. 11, and at pages 15-17, as to the application of Murphy to the instant claims. However, these are merely statements rebutting appellants' arguments, by pointing to certain portions of Murphy alleged to rebut those arguments. But, it was still the examiner's burden, in the first instance, to present a prima facie case of anticipation so that appellants were informed as to the examiner's position in the first place, regarding Murphy. Appellants are not required to speculate as to the examiner's reasoning and to shoot arrows in the dark, hoping to hit upon that portion of a reference upon which an examiner relies for a rejection. Where, as here, the examiner has stated no reason for the rejection, appellants were not obligated to present any argument at all, for the rejection fails from the outset. We will not permit the examiner to offer, for the first time, in his response to appellants' arguments, an explanation of the reasoning behind the rejection. Such explanation is to be offered to appellants prior to appeal, preferably in the second, or final, office action, but certainly a full explanation of the

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grounds of rejection and reasons therefor are to be described in the answer, or by reference to a single previous office action. Here, the examiner has never set forth the rationale behind the rejection. An explanation by way of piecemeal responses to appellants' arguments, which were not even required in view of the examiner's total lack of a rationale for the rejection, is not sufficient to meet the examiner's initial burden of establishing a prima facie case.

The examiner is advised that should he reopen prosecution to repeat the rejection of the claims over Murphy, he should be prepared to specifically respond to appellants' observations, at pages 10-11 of the reply brief, e.g., regarding Murphy's lack of a suggestion to display an event logger and a trend display at the same time, and regarding Murphy's counting of events not suggesting an event table containing information describing process events that are related to the selected process parameters and that occurred during the selected time window.

We will not sustain the rejection of claims 1, 3-5, 9, 11, and 12 under 35 U.S.C. § 102(b) over Murphy.

Turning our attention to the rejection based on Hanson, we find ourselves in agreement with appellants as we find no disclosure or suggestion in Hanson of viewing an event table and

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a trend chart on a display screen at the same time as specifically required by independent claims 1 and 9. Independent claim 14 does not require display at the same time, but clearly requires a graphical user interface having two display areas, one displaying a trend line, and the other displaying information regarding a process event. So while not necessarily requiring display at the same time, claim 14 requires, as does independent claim 23, requires the trend line and the process event information to be displayed in different areas of the same display. Independent claim 17 requires "simultaneously" displaying the trend graph and a table representative of event data.

First, we cannot agree with the examiner that the "alarm" in Hanson is equivalent to the claimed "event table." The "event table" of instant claims 1 and 9 must contain "information describing process events that are related to the selected process parameters and that occurred during the selected time window." Similarly, independent claim 17 states that the event records must be "related to the process," as does claim 23. Even independent claim 14 states that the event data must be "related to the operation of a process." The "alarm" in Hanson is, in no way, related to the operation of the process. It is merely a box

in Figures 6 and 7 which is indicative of a value which has exceeded an alarm threshold. There is no reason to consider the "alarm" box of Hanson to be an "event table," as claimed.

The examiner explains that Hanson's highlighted event indicating an alarm at a specific point is "representative of an event...since it indicates a type of action/event that occurred at a specific time during the operation of a specific process, which may correspond to an event category" (answer-pages 4-5). This still does not explain how such a disclosure by Hanson, even if true, indicates an "event table," as claimed.

While there are many arguments bandied about by appellants and the examiner regarding the disclosure of Hanson, the bottom line, as we see it, is that Hanson does not disclose or suggest viewing an event table and a trend chart on a display screen at the same time, or on the same display screen, as required by every one of the independent claims. *

The examiner posits that Hanson does disclose such in a disclosure of gathering and storing real time process variable data, at column 5, lines 60-65, for analyzing historical data to detect trends, at column 6, lines 40-50, and in "display of various parameters and values that correspond to events" (answer-page 4) in Figures 6 and 7. The examiner also points to Figure 8

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for a simultaneous display of "a histogram representative of the trends of corresponding process variables/events along with a listing of parameters and values, which are information describing process events and thus representative of an event table (col. 9-10, 11.66-10)" (answer-page 4).

Appellants assert that Figure 8 of Hanson merely shows a histogram (frequency distribution) of trend lengths for the data of Figure 7. This is borne out at column 10, lines 4-8, of Hanson. We agree with appellants that Figure 8 of Hanson is not an event table but merely an illustration of the calculation of a trend length threshold. There is nothing in Hanson indicating that anything in Figure 8 contains information describing process events that occurred during the selected time window (because there is no time window in Figure 8), as is required by at least instant claim 1. If Figure 8 of Hanson does show an "event table," as alleged by the examiner, the examiner has not explained where, in the figure, is information describing process events that occurred during a selected time window.

While the examiner attempts to rebut this by arguing, at page 5 of the answer, that Figure 8 describes a histogram displaying trends of events over time, the examiner still does not explain what he relies on for the claimed time window, nor

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does he explain how Figure 8 shows information describing process events that occurred during such a time window.

Thus, since we are unconvinced by the examiner's explanation, that Hanson discloses viewing an event table and a trend chart on a display screen at the same time, or on the same display screen, as required by every one of the independent claims, we will not sustain the rejection of claims 1-5, 8-12, and 14-24 under 35 U.S.C. § 102(b).

SUMMARY

We have dismissed the appeal as to claims 6, 7, and 13, and we have reversed the examiner's rejection of claims 1-5, 8-12, and 14-24 under 35 U.S.C. § 102(b) over Hanson, and the rejection of claims 1, 3-5, 9, 11, and 12 under 35 U.S.C. § 102(b) over Murphy.

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Accordingly, the examiner's decision is reversed.

DISMISSED and REVERSED



ERROL A. KRASS)
Administrative Patent Judge)



JOSEPH F. RUGGIERO)
Administrative Patent Judge)

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ANITA PELLMAN GROSS)
Administrative Patent Judge)

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